

# ARKANSAS SUPREME COURT

No. CR 06-871

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered February 22, 2007

MICHAEL D. BELL  
Petitioner

*PRO SE* MOTION FOR  
APPOINTMENT OF OTHER COUNSEL  
[CIRCUIT COURT OF UNION  
COUNTY, CR 2005-52, HON. CAROL  
CRAFTON ANTHONY, JUDGE]

v.

STATE OF ARKANSAS  
Respondent

MOTION HELD IN ABEYANCE;  
ORDER TO APPEAR AND SHOW  
CAUSE ISSUED.

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## PER CURIAM

Appellant Michael D. Bell was convicted by a jury of possession of a controlled substance with intent to deliver, possession of drug paraphernalia, and three counts of delivery of a controlled substance. An aggregate sentence of 876 months' imprisonment was imposed.<sup>1</sup> Petitioner was represented at trial by his retained attorney, Don Gillaspie.

The judgment and commitment order was entered on December 5, 2005, and an amended judgment and commitment order was entered on January 4, 2006. Petitioner filed a *pro se* notice of appeal on January 5, 2006, seeking to appeal from the judgment on the charge of possession of a controlled substance with intent to deliver in the amended judgment. The appeal was not perfected, and petitioner filed a *pro se* motion for belated appeal in this court. As the notice of appeal was

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<sup>1</sup>The sentence was enhanced for distribution of a controlled substance near certain facilities.

timely filed, we treated the motion as a motion for rule on clerk. *See Johnson v. State*, 342 Ark. 709, 30 S.W.3d 715 (2000) (*per curiam*); *see also Muhammed v. State*, 330 Ark. 759, 957 S.W.2d 692 (1997) (*per curiam*).

We remanded the matter to the trial court for an evidentiary hearing on the issues of whether trial counsel was informed by appellant within the time period allowed for filing a notice of appeal that he desired to appeal from the amended judgment and commitment order and whether trial counsel was obligated to perfect an appeal. *Bell v. State*, CR 06-871 (Ark. Oct. 26, 2006) (*per curiam*). The court took testimony at the hearing from appellant and Mr. Gillaspie. Mr. Gillaspie conceded that he knew that petitioner wished to appeal and that appellant made that wish known to him during the time allowed for filing a notice of appeal. Based on the Findings of Fact provided by the trial court, we concluded that Gillaspie abandoned the appeal and granted appellant leave to proceed with the appeal. *Bell v. State*, CR 06-871 (Ark. Jan. 18, 2007) (*per curiam*). As appellant contended that he was now indigent and the State did not contest the assertion, we appointed Gillaspie to continue as attorney-of-record and directed him to file a petition for writ of certiorari within fifteen days to call up any additional portion of the record that may be necessary for an appeal to this court.

The petition for writ of certiorari was due to be filed here on February 2, 2007, but was not received by that date. Now before us is appellant's *pro se* motion asking that another attorney be appointed to represent him on the grounds that Mr. Gillaspie's conduct in his case evinces "personal conflict, animosity, and hostility," as evidenced by Gillaspie's failure to follow the rules of the court.

We first note that Mr. Gillaspie did not file the petition for writ of certiorari within fifteen days as directed by this court despite the fact that copies of the opinion were mailed directly to him

by both our clerk and one of our staff attorneys. As Mr. Gillaspie failed to act in accordance with this court's directive, he is directed to appear before this court on Thursday, March 8, 2007, at 9 a.m, and show cause why he should not be held in contempt for his failure to proceed as directed. Appellant's motion for appointment of other counsel will be held in abeyance and acted on after Mr. Gillaspie appears.

A copy of this opinion will be forwarded to the Committee on Professional Conduct.

Motion held in abeyance; order to appear and show cause issued.